



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

November 8, 2004

Mr. Fred Paquette
348 Route 101
Amherst, New Hampshire 03031

CERTIFIED MAIL (7099 3400 0018 1290 3084)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

RE: Non-Conforming Open Burning

Dear Mr. Paquette:

On March 20, 2004, the Amherst Fire Department ("AFD") responded to an open burning incident at 348 Route 101, Amherst, NH (the "Property"). Mr. Fred Paquette was identified as the owner of the Property. The AFD observed that some non-conforming material had been burned on the Property.

On March 22, 2004, Amherst Fire Chief John DeSilva notified the New Hampshire Department of Environmental Services, Air Resources Division ("DES") that an open burning incident had occurred at the Property. On March 23, 2004, DES personnel conducted an inspection at the Property in order to determine conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. Mrs. Alice Paquette granted access to the Property. Mrs. Paquette stated that most of the debris had been removed from the Property, but the remainder had been burned. During the inspection, DES personnel observed and photographed a burn pile that contained charred ceiling tile, charred shingles, charred painted wood, charred metal, and a quantity of suspected asbestos containing material ("ACM"). Several samples of the ACM were taken for analysis, some of which were later determined to contain asbestos in an amount greater than one percent. You arrived at the Property as the DES inspector was completing his inspection. The DES inspector accompanied you to the burn pile on the Property and pointed out the charred non-conforming material.

As a result of the inspection and of the information gathered, DES has determined that violations occurred. The purpose of this letter is to notify you of the violations discovered, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violations are as follows:

- Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05 (d) allows periodic on-site burning of brush by the landowner and allows the burning of untreated wood from the construction or demolition of a building. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.
- Env-A 1001.03(a) defines "brush" as tree tops, limbs, saplings, and tree cuttings that are five inches in diameter or less.
- Env-A 1001.03(k) defines "untreated wood" as any timber, board, or sawn dimensional lumber, which has not been treated, coated, or preserved.

- Env-A 1802.02 states that the owner of a single family home can perform asbestos abatement on their residence as long as certain requirements are met. However, the owner shall comply with Env-A 1805.06 and Env-A 1807.07.
- Env-A 1805.06 requires that ACM be kept wet during removal and not be broken or dropped onto the ground. At no time should ACM be allowed to accumulate on the ground.
- Env-A 1805.07 specifies that all ACM shall be placed wet into labeled watertight containers or double impermeable bags for transport to a landfill.

In addition, due to the nature of the material burned in violation of Env-A 1000, you may be required to test the ash to determine the appropriate means of ash disposal. Therefore, this matter was referred to the DES Waste Management Division. Should you have any questions regarding ash sampling and analysis or disposal, please contact the Solid Waste Management Bureau at 603-271-2925. In the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Joseph Ritz at (603) 271-1391, Air Resources Division, Compliance Bureau. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm>, or by contacting the Public Information Center at (603) 271-2975.

Sincerely,


COPY

Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enc.: Env-A 1001, *Open Burning*
Env-A 1800, *Asbestos Management and Control*

cc: R. Kurowski, EPA Region 1
G. Hamel, Legal Unit Administrator
M. Guilfooy, NHDES-WMD
Chief J. DeSilva, Amherst Fire Dept.
J. Dinkel, Chairman, Amherst Board of Selectmen
AFS # 330119777